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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/790,167	03/01/2004	Jay S. Walker	03-028	1011

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EXAMINER	
NGUYEN, BINH AN DUC	

ART UNIT	PAPER NUMBER
3714	

MAIL DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/790,167	WALKER ET AL.	
	Examiner	Art Unit	
	Binh-An D. Nguyen	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *09 November 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-5,13-17,29 and 33-35* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-5,13-17,29 and 33-35* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *4/30/04*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

The Response to Election/Restriction Requirement and the Amendment filed November 19, 2007, respectively, have been received. According to the Response, Species S1, which corresponds to claims 1-5, 29, 33, and 34, has been elected without traverse. Note that, claims 13-17 and 35 have been considered in the previous Office Action as generic claims. Further, according to the Amendment, claims 6-12, 18-28, and 30-32 have been canceled.

Currently, claims 1-5, 13-17, 29, and 33-35 are pending in the application and will be examined on the merit. Acknowledgment has been made.

Specification

The disclosure is objected to because of the following informalities:

The status of parent application, e.g., U.S. Application 09/783,251 (now U.S. Patent No. 6,695,700), must be updated. Further, information regarding other parent application, e.g., U.S. Application 09/001902 (now U.S. Patent No. 6,238,288), should also be provided in the specification.

The related copending applications disclosed in the specification (page 15, line 29 to page 16, line 6) must be updated.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-5, 13-17, and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Seelig et al. (5,560,603), hereafter '603. Note that, '603 is a continuation-in-part of Seelig et al. (5,664,998), hereafter '998; therefore, the disclosure of '998 is considered herein as part of the '603's disclosure.

Referring to claim 1, Seelig et al. '603 teaches a method comprising: calculating a speed of game play based on a number of plays per unit time (3:5-31); determining a pay schedule based on the calculated speed of game play, *e.g., different prizes for offered to the horse reaching certain win line (Win, Place, or Show) within a set of time* (3:56-4:7); and displaying a racing object having a position which changes based on the

calculated speed of game play (Fig.3, 2:61-3:4), wherein a player payout percentage defined by the determined pay schedule is greater for a first speed of game play than for a second speed of game play, the first speed being greater than the second speed (3:40-4:7).

Referring to claim 13, Seelig et al. '603 teaches a method comprising: receiving payment for a predetermined number of slot machine outcomes; generating the predetermined number of slot machine outcomes, each outcome corresponding to a speed value (4:26-50); and displaying a racing object having a position which changes based on the speed value (Fig.3, 2:61-3:4).

Referring to claim 35, Seelig et al. '603 teaches a method comprising: determining a speed at which a wagering game is being played at a gaming device (1:60-2:13); determining, based on the speed, a reward to provide to a player participating in the wagering game; and providing the reward to the player, *e.g., awarding different prizes to the horse reaching certain win line position (Win, Place, or Show) within a set of time* (3:56-4:7), wherein the benefit is determined such that a more beneficial reward is determined and provided to the player if the speed is a first speed that is greater than a second speed, e.g., first speed is Win and second speed is Place (Fig. 3, 3:56-4:7).

Referring to claim 2, Seelig et al. '603 teaches calculating the speed of game play based on a number of plays which have occurred since a predefined amount of time (3:5-12).

Referring to claim 3, Seelig et al. '998 teaches the speed of game play based on a predetermined number of plays ('998's 3:61-63).

Referring to claim 4, Seelig et al. '603 teaches providing a payout based on at least the determined pay schedule *e.g., awarding different prizes to the horse reaching certain win line position (Win, Place, or Show) within a set of time* (3:56-4:7).

Referring to claim 5, Seelig et al. '603 teaches calculating a running count based on the speed of game play; and providing a payout based on at least the running count *different prizes offered to the horse reaching certain win line position (Win, Place, or Show) within a set of time* (3:56-4:7).

Referring to claim 14, Seelig et al. '603 teaches providing a payout based on at least the speed value, *e.g., awarding different prizes to the horse reaching certain win line position (Win, Place, or Show) within a set of time* (3:56-4:7).

Referring to claim 15, Seelig et al. '603 teaches providing a payout based on at least the position, *e.g., awarding different prizes to the horse reaching certain win line position such as Win, Place, or Show* (Fig.3, 3:56-4:7).

Regarding the limitation of calculating an average speed; and providing a payout based on at least the average speed (claim 16), this limitation is inherent from Seelig et al. '603 teaching of speed calculation of the horse or car reaching a certain win line such as Show, Place, or Win at certain time period before the timer run out of time.

Regarding the limitation of generating a respective slot machine outcome for each one of a plurality of player commands (claim 17), this limitation is inherent from the

response of slot machine of Seelig et al. '603 to the player's game commands such as pulling the handle 24 or depressing the button 26 (3:3:53-63).

Claims 29, 33, and 34 are rejected under 35 U.S.C. 102(b) as being anticipated by Acres et al. (5,655,961). Should the applicant persuasively overcome the 35 U.S.C. 102(b) date, the claims, alternatively, are also rejected under 35 U.S.C. 102(e).

Referring to claim 29, Acres et al. teaches a method comprising: determining revenue received per unit of time from a player playing a wagering game at a gaming device (26:2-10); determining a magnitude of a multiplier based on the revenue (26:2-10), wherein the multiplier is of a first magnitude for a first revenue and of a second magnitude for a second revenue and further wherein the first revenue is greater than the second revenue and the first magnitude is greater than the second magnitude (35:59-36:4); determining a base amount for a payout, *e.g., default payout schedule*; calculating the payout by multiplying the base amount by the multiplier (35:57-36:4); and providing the payout to the player (36:2-4; 3:13-36).

Referring to claim 33, Acres et al. teaches determining a value indicative of revenue received per unit of time from a player playing a wagering game at a gaming device (35:61-66); determining a payout based on the value; and providing the payout to the player (35:66-36:4).

Referring to claim 34, Acres et al. teaches determining a multiplier (26:2-10)(35:59-61), wherein the multiplier is of a first magnitude if the revenue is a first

revenue and the multiplier is of a second magnitude if the revenue is a second revenue, and wherein the first magnitude is greater than the second magnitude and the first revenue is greater than the second revenue, and further wherein determining the payout based on the multiplier comprises determining a base value for the payout and determining the payout by multiplying the multiplier by the base value (35:57-36:4).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-5, 13-17, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al.(6,695,700) (or 6,238,288) in view of Seelig et al. (5,560,603), hereafter '603. Note that, '603 is a continuation-in-part of Seelig et al. (5,664,998), hereafter '998; therefore, the disclosure of '998 is considered herein as part of the '603's disclosure.

Referring to claims 1, Walker et al.(6,695,700) (or 6,238,288) discloses all limitations (see claims 49-51 of Walker et al. 6,695,700; or claims 1, 11, 21, 23, 25, 35, and 45 of 6,238,288) **except** displaying a racing object having a position which changes based on the calculated speed of game play. Seelig et al. '603, however, teaches displaying a racing object having a position which changes based on the calculated speed of game play (Fig.3, 2:61-3:4). It would have been obvious to a person of

ordinary skill in the art at the time the invention was made to combine the racing objects to Walker et al.(6,695,700) (or 6,238,288) to provide an attractive bonus game method to casino games thus attracts more racing sports lovers to the game and increase casino's revenue.

Referring to claim 13, Walker et al.(6,695,700) (or 6,238,288) discloses all limitations (see claims 49-51 of U.S. Patent No. 6,695,700; or claims 1, 11, 21, 23, 25, 35, and 45 of Patent No. 6,238,288) **except** receiving payment for a predetermined number of slot machine outcomes; and displaying a racing object having a position which changes based on the speed value. Seelig et al. '603, however, teaches a method comprising: receiving payment for a predetermined number of slot machine outcomes; generating the predetermined number of slot machine outcomes, each outcome corresponding to a speed value (4:26-50); and displaying a racing object having a position which changes based on the speed value (Fig.3, 2:61-3:4). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the racing objects to Walker et al.(6,695,700) (or 6,238,288) to provide an attractive bonus game method to casino games thus attracts more racing sports lovers to the game and increase casino's revenue.

Referring to claim 35, Walker et al.(6,695,700) (or 6,238,288) discloses all limitations (see 6,695,700's claims 49-51; **or** claims 1, 11, 21, 23, 25, 35, and 45 of 6,238,288) **except** providing the reward to the player, wherein the benefit is determined such that a more beneficial reward is determined and provided to the player if the speed is a first speed that is greater than a second speed. Seelig et al. '603, however, teaches

a method comprising: determining a speed at which a wagering game is being played at a gaming device (1:60-2:13); determining, based on the speed, a reward to provide to a player participating in the wagering game; and providing the reward to the player, *e.g., awarding different prizes to the horse reaching certain win line position (Win, Place, or Show) within a set of time* (3:56-4:7), wherein the benefit is determined such that a more beneficial reward is determined and provided to the player if the speed is a first speed that is greater than a second speed, e.g., first speed is Win and second speed is Place (Fig. 3, 3:56-4:7). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to provide different rewards, as taught by Seelig et al., to Walker et al.(6,695,700) (or 6,238,288) to come up with an attractive bonus game method to casino games thus attracts more player to the game and increase casino's revenue.

Referring to claim 2, Seelig et al. '603 teaches calculating the speed of game play based on a number of plays which have occurred since a predefined amount of time (3:5-12).

Referring to claim 3, Seelig et al. '998 teaches the speed of game play based on a predetermined number of plays ('998's 3:61-63).

Referring to claim 4, Seelig et al. '603 teaches providing a payout based on at least the determined pay schedule *e.g., awarding different prizes to the horse reaching certain win line position (Win, Place, or Show) within a set of time* (3:56-4:7).

Referring to claim 5, Seelig et al. '603 teaches calculating a running count based on the speed of game play; and providing a payout based on at least the running count

different prizes offered to the horse reaching certain win line position (Win, Place, or Show) within a set of time (3:56-4:7).

Referring to claim 14, Seelig et al. '603 teaches providing a payout based on at least the speed value, *e.g., awarding different prizes to the horse reaching certain win line position (Win, Place, or Show) within a set of time* (3:56-4:7).

Referring to claim 15, Seelig et al. '603 teaches providing a payout based on at least the position, *e.g., awarding different prizes to the horse reaching certain win line position such as Win, Place, or Show* (Fig.3, 3:56-4:7).

Regarding the limitation of calculating an average speed; and providing a payout based on at least the average speed (claim 16), this limitation is inherent from Seelig et al. '603 teaching of speed calculation of the horse or car reaching a certain win line such as Show, Place, or Win at certain time period before the timer run out of time.

Regarding the limitation of generating a respective slot machine outcome for each one of a plurality of player commands (claim 17), this limitation is inherent from the response of slot machine of Seelig et al. '603 to the player's game commands such as pulling the handle 24 or depressing the button 26 (3:3:53-63).

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140

F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-5, 13-17, and 35 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 49-51 of U.S. Patent No. 6,695,700 (**or** claims 1, 11, 21, 23, 25, 35, and 45 of Patent No. 6,238,288) in view of Seelig et al. (5,560,603), hereafter '603. Note that, '603 is a continuation-in-part of Seelig et al. (5,664,998), hereafter '998; therefore, the disclosure of '998 is considered herein as part of the '603's disclosure.

Referring to claims 1, U.S. Patent No. 6,695,700's claims 49-51 (**or** claims 1, 11, 21, 23, 25, 35, and 45 of Patent No. 6,238,288) claimed all limitations **except** displaying a racing object having a position which changes based on the calculated speed of game play. Seelig et al. '603, however, teaches displaying a racing object having a position which changes based on the calculated speed of game play (Fig.3, 2:61-3:4). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the racing objects to claims 49-51 of U.S. Patent No. 6,695,700 (**or** claims 1, 11, 21, 23, 25, 35, and 45 of Patent No. 6,238,288) to provide an attractive

bonus game method to casino games thus attracts more racing sports lovers to the game and increase casino's revenue.

Referring to claim 13, U.S. Patent No. 6,695,700's claims 49-51 (**or** claims 1, 11, 21, 23, 25, 35, and 45 of Patent No. 6,238,288) claimed all limitations **except** receiving payment for a predetermined number of slot machine outcomes; and displaying a racing object having a position which changes based on the speed value. Seelig et al. '603, however, teaches a method comprising: receiving payment for a predetermined number of slot machine outcomes; generating the predetermined number of slot machine outcomes, each outcome corresponding to a speed value (4:26-50); and displaying a racing object having a position which changes based on the speed value (Fig.3, 2:61-3:4). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the racing objects to claims 49-51 of U.S. Patent No. 6,695,700 (**or** claims 1, 11, 21, 23, 25, 35, and 45 of Patent No. 6,238,288) to provide an attractive bonus game method to casino games thus attracts more racing sports lovers to the game and increase casino's revenue.

Referring to claim 35, U.S. Patent No. 6,695,700's claims 49-51 (**or** claims 1, 11, 21, 23, 25, 35, and 45 of Patent No. 6,238,288) claimed all limitations **except** providing the reward to the player, wherein the benefit is determined such that a more beneficial reward is determined and provided to the player if the speed is a first speed that is greater than a second speed. Seelig et al. '603, however, teaches a method comprising: determining a speed at which a wagering game is being played at a gaming device (1:60-2:13); determining, based on the speed, a reward to provide to a player

participating in the wagering game; and providing the reward to the player, *e.g., awarding different prizes to the horse reaching certain win line position (Win, Place, or Show) within a set of time* (3:56-4:7), wherein the benefit is determined such that a more beneficial reward is determined and provided to the player if the speed is a first speed that is greater than a second speed, e.g., first speed is Win and second speed is Place (Fig. 3, 3:56-4:7). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to provide different rewards, as taught by Seelig et al., to claims 49-51 of U.S. Patent No. 6,695,700 (**or** claims 1, 11, 21, 23, 25, 35, and 45 of Patent No. 6,238,288) to come up with an attractive bonus game method to casino games thus attracts more player to the game and increase casino's revenue.

Referring to claim 2, Seelig et al. '603 teaches calculating the speed of game play based on a number of plays which have occurred since a predefined amount of time (3:5-12).

Referring to claim 3, Seelig et al. '998 teaches the speed of game play based on a predetermined number of plays ('998's 3:61-63).

Referring to claim 4, Seelig et al. '603 teaches providing a payout based on at least the determined pay schedule *e.g., awarding different prizes to the horse reaching certain win line position (Win, Place, or Show) within a set of time* (3:56-4:7).

Referring to claim 5, Seelig et al. '603 teaches calculating a running count based on the speed of game play; and providing a payout based on at least the running count *different prizes offered to the horse reaching certain win line position (Win, Place, or Show) within a set of time* (3:56-4:7).

Referring to claim 14, Seelig et al. '603 teaches providing a payout based on at least the speed value, *e.g., awarding different prizes to the horse reaching certain win line position (Win, Place, or Show) within a set of time* (3:56-4:7).

Referring to claim 15, Seelig et al. '603 teaches providing a payout based on at least the position, *e.g., awarding different prizes to the horse reaching certain win line position such as Win, Place, or Show* (Fig.3, 3:56-4:7).

Regarding the limitation of calculating an average speed; and providing a payout based on at least the average speed (claim 16), this limitation is inherent from Seelig et al. '603 teaching of speed calculation of the horse or car reaching a certain win line such as Show, Place, or Win at certain time period before the timer run out of time.

Regarding the limitation of generating a respective slot machine outcome for each one of a plurality of player commands (claim 17), this limitation is inherent from the response of slot machine of Seelig et al. '603 to the player's game commands such as pulling the handle 24 or depressing the button 26 (3:3:53-63).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Binh-An D. Nguyen whose telephone number is 571-272-4440. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on 571-272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert E Pezzuto/
Supervisory Patent Examiner, Art Unit 3714

BN

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